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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

GAMBIA

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Introduction

1. The Republic of the Gambia ratified the Convention on the Rights of the Child (CRC) on 3 August 1990. In consonance with her obligation under the aforementioned Convention, the Gambia is bound by law to provide an initial as well as a periodic report to the Committee on the Rights of the Child on the steps which it has taken to ensure the fulfilment of the rights of the child.

2. This initial report is part of the Government's efforts at compliance with this obligation. Having formulated its National Plan of Action for the Survival, Protection and Development of Gambian Children in 1992, in line with the goals and aspirations of both the Convention on the Rights of the Child and the Declaration and Plan of Action of the World Summit for Children, the country is poised to assess its progress in the year 2000 towards the fulfilment of its 1990 promise to its children.

3. This report will attempt to give an objective assessment and analysis of the legal, judicial and administrative measures taken by the Gambia to ensure the attainment of the objectives of the Convention. It will analyse the situation of the Gambia's children, using available data and information as well as the existing policies and strategies designed to facilitate progress. The report has further highlighted the relationship between the law and the realities of the Gambia.

4. The 1996 Constitution of the Gambia marks a significant turning point in its social and political evolution. It has been a source of inspiration for policy-makers and stakeholders in social development, in that it has guaranteed the enjoyment of the basic rights to life, development, participation and protection from exploitation. The lowering of the voting age from 21 years under the 1970 Constitution to 18 years under the new Constitution further demonstrates, in part, a commitment to harmonize existing laws with the Convention. This is especially so, noting the absence of a consensus within the laws of the Gambia on the definition of a child.

5. The articles of priority concern to the Gambia, namely access to health, education, child protection and justice, have been accorded special attention to respond to the dictates of the Convention. The intervention of Government, NGOs, United Nations agencies and other development partners in relation to children and the overall socio-economic development of the Gambia have assumed an unprecedented pace in recent years. The Women in Development Project, the National Environmental Action Plan, the Strategy for Poverty Alleviation Project, the Population Policy, the National Education Policy, the National Health Policy and their respective components are a clear manifestation of these efforts.

6. However, the role of the media in sensitizing the foremost beneficiaries of the Convention, that is the children, must be underscored as the first step towards effective nationwide awareness of the Convention.

7. It must be noted that illiteracy, political will, religion, traditional practices and the patriarchal system of the Gambia are among the major factors which may contribute to delay in achieving certain goals and objectives set out in the Convention. The analysis also focuses on a number of key indicators relating to the survival, development, protection and participation of

children to assess the current welfare of Gambian children, especially the girl child. These indicators include infant mortality, child mortality, maternal mortality, malnutrition, population and family planning methods and life expectancy trends.

8. Despite the positive gains made in social development, the absence of an existing corporate body of laws that focus entirely on children is one of the main obstacles in the Gambia's capacity to implement the Convention. The Children and Young Persons Act is not comprehensive enough to accommodate all the provisions of the Convention. The Maintenance Act discriminates against Muslim children born out of wedlock. This scenario, therefore, requires a concerted effort to revisit the institutional and legal framework to ensure a comprehensive strategy for the protection of children's rights.

9. This document is a testament of hope, inspiration and a legacy for posterity or generations of children yet to be born. It represents a landmark of national efforts aimed at bridging recognized gaps among the constitution, statutory laws, policies and programmes of the Gambia. The report is divided into two parts. Part I provides background information on the Gambia and the context in which the report is produced. Part II has seven main chapters based on clusters of the Convention articles and guided by the reporting guidelines of the Committee.

I. THE SOCIO-POLITICAL, LEGAL, JUDICIAL CONTEXT/FRAMEWORK

A. Land and climate

10. The Gambia, one of the smallest countries in West Africa, with a subtropical climate, lies between latitudes 13 and 14 degrees north. A narrow strip of land about 400 kilometres long and 30 kilometres wide, it is surrounded on three sides by Senegal and by the Atlantic Ocean on the west. The surface geology of the country consists almost entirely of nearly flat land with a few hills in the middle and eastern parts of the country.

11. Located in the Sahel, the Gambia has a climate characterized by a short rainy season lasting from June to October and a long dry season lasting from November to May. Rainfall ranges from 850 mm to 1200 mm and the average temperature from 18 to 30 degrees Celsius during the dry season and 23 to 33 degrees Celsius during the rainy season. Relative humidity has been estimated at 68 per cent along the coast and 41 per cent inland during the dry season and generally about 77 per cent throughout the country during the rainy season. The Gambia has a total land area of 10,689 square kilometres. Of the total land area, about 19 per cent consist of wetland.

12. Rainfall data dating back to the 1950s show that until the late 1960s, rains were generally adequate. The year 1968 marked the beginning of successive years of drought, which persisted into the 1970s and 1980s. Observed rainfall patterns over the years point to a declining trend in rainfall characterized by a rainfall decline in each month of the rainy season with more pronounced declines in the months of August and September. Also observed is a decline in the length of the rainy season with a shift in the onset of the season from mid-June to early July.

13. Over the past two decades, the Gambia has witnessed a rapid rate of desertification unprecedented in the country's history. This phenomenon can partly be attributed to the fact that the carrying capacity of the land has been exceeded due to increases in both human and animal populations. Population increase had led to increased demand for food and housing. Efforts at meeting these demands has led to the destruction of vegetation and our forest cover as a result of overgrazing, bush fires, deforestation and poor agricultural practices. Another contributing factor to desertification is adverse climate conditions which have led to the continued degradation of the soil and vegetation cover and hence desertification, which all culminate in the degradation of the physical and biological environment of the country. The northern part of the country bordering northern Senegal is more affected by desertification than the south.

14. Three decades of drought leading to low and uneven rainfall distribution have caused a sharp decline in agricultural production and therefore rural income levels. As agriculture is the main source of employment and food supply for the rural population (63 per cent of the population of the Gambia), the decline in production has both social and economic consequences for the country. This has led in the recent past to acceleration in rural to urban migration, an increase in the incidence of poverty, and has also adversely affected the state of food security.

B. Demographic profile

15. The Gambia has one of the highest annual population growth rates (4.2 per cent) in sub-Saharan Africa. For instance, the 20-year period, 1963-1983, the size of the population doubled. Moreover, according to the results of the 1993 census, the size of the population reached the 1 million mark, which is more than a threefold increase from 1963. These high population growth rates can largely be explained by the persistently high fertility rate, improvements in mortality and a high level of migration. However, it is noteworthy that the growth rate of about 5 per cent for 1973 should be treated with caution. This unusually high growth rate can be attributed to the under-count in the 1963 census (see table 1 below).

16. Table 1 also shows that except in 1983, when females were slightly predominant, both the 1963 and 1973 censuses showed a preponderance of males. The phenomenon of more males in the total population can be explained by sex-selective migration, that is, more males migrate than females. However, in 1993, there was no significant difference in population size by gender. If the national growth rate of 4.2 per cent per annum is maintained, it is estimated that the Gambia's population will reach 1.2 million in 1996.

Table 1. Population growth rate by sex, 1963-1996[a]

Year	Male	Female	Total	Rate of growth (% per annum)		
				Male	Female	Total
1963	160 840	154 637	315 586	-	-	-
1973	250 386	243 113	493 499	4.5	4.6	4.6
1983	342 134	345 683	687 817	3.2	3.6	3.4
1993	519 950	518 195	1 038 145	4.3	4.1	4.2
1996[a]	591 542	586 019	1 177 561	4.3	4.1	4.2

Source: Central Statistics Department.

[a] Estimates based on the 1993 growth rate.

17. Other relevant demographic and socio-economic indicators are shown below:

Population by sex

Total	('000)	1 038
Male	('000)	519
Female	('000)	518
Sex ratio	('000 females)	98.9
Women aged 15-49 years	('000)	244
Pop. in year 2000	('000)	1 202

Population change 1983-1993

Pop. increase	('000)	688
Births	('000)	40 per yr.
Deaths	('000)	18.7
Net migration	('000)	7.2

Population by age group

Age 0-17	(in 000)	521
Percentage aged 0-17		50.2%
Age 18-64	(in 000)	468
Percentage aged 18-64		53.1%
Youth aged 15-24	(in 000)	207
Percentage: Youth aged 15-24		20%

Rate of annual change (%)

Total population	4.2%
Urban population	6.2%
Rural population	2.7%
Crude birth rate (per 1 000)	46.2

Population by area of residence

Urban	('000)	385
Proportion urban		37%
Rural	('000)	653
Proportion rural		63%

Life expectancy (years)

Male	58.3
Female	60.0
Total	9.3

Population density

Person/sq km	97

GNP

Per capita (US$) 320
(Human Development Report 1997)

C. Urbanization

18. The Gambia is becoming urbanized at an alarming rate. According to the adopted urban definition for the 1993 census, 37 per cent of the population are living in the urban areas. The urban annual growth rate was 6.2 per cent in 1993 compared with 3.2 per cent for the rural areas. This rapid urban growth has its attendant problems such as inadequate and poor housing, unemployment, poverty and squalor, and the lack of essential services like electricity etc.

D. Age structure

19. The Gambia's population can be described as "young" because of the low median ages of 18.4 and 17.9 years, respectively, for 1983 and 1993. On the whole, there is no significant difference in the median ages by gender for the 1983 and 1993 censuses. According to the 1993 census, 44 per cent of the population were under 15 years, 50.4 per cent were under 18 years, 16.2 per cent were under 5 years and 3.2 per cent were 65 years and above. The large proportion of children in the population has socio-economic implications for the provision of basic health services for children and the opportunity cost of child-rearing, especially for working mothers. All these translate into a high dependency ratio for the working population.

E. Political and administrative structure

Historical perspective

20. Until February 1965, when the Gambia became independent, it had been a British colony for nearly 300 years. It acceded to republican status in April 1971. As a prelude to its independence, a new constitution with universal adult suffrage was introduced in 1962, according both women and men who had attained the age of 21 years the right to vote. The Gambia practised multiparty democracy with an enviable human rights record. Elections were held every five years.

21. Until 22 July 1994, the republican Constitution vested the legislative functions of the country in a Parliament comprising a speaker, 36 elected members, 5 chiefs and 9 members nominated by the President. The executive arm of Government was composed of the Cabinet, chaired by the President of the Republic, the Vice-President, who was also responsible for women's affairs, 13 ministers, who were also members of Parliament, and the Secretary-General, also the head of the Civil Service. Recognizing the special needs of the country's youth and the importance of sports and culture in the overall national development, youth, sports and culture were detached from the Ministry of Education to form a new Ministry to take responsibility of youth concerns, among others.

F. Local government

22. Divisional commissioners were responsible for the administration of the five divisions (Western, Lower River, North Bank, Central River and Upper River) and the two municipalities, Banjul and Kanifing, were administered by an elected mayor and chairman, respectively. Each of the divisions was subdivided into districts headed by chiefs, under who were subordinate village heads known as alkalolu.

23. Although there was no legislation discriminating against women as far as national politics were concerned, societal mores, lack of awareness and the low status of Gambian women militated against them politically. Owing to the patriarchal nature of the society, women perceived themselves as supporters of, rather than active participants in politics.

24. During the 30 years of the Gambia's political history, only one woman ever contested and won in a parliamentary election. Over the years, a few women were nominated as members of Parliament and between 1982 and 1987 the first female Minister of Education (who later became Minister of Health and Social Welfare) was appointed by the President.

25. There were neither female commissioners nor chiefs though females form 50.8 per cent of the local population. The result was that the presence of women, the majority of the population, was not felt at the decision-making level.

26. At the village level, females had virtually no voting rights in elections for chief and alkalo because only compound owners were eligible to vote and very few women, if any, owned compounds at the village level. Nominations for chief and alkalo were done by divisional commissioners, who were all men. Selection criteria included heredity, popularity within the community, as well as political affiliation. During that time, only three females served as alkalolu.

27. In response to the international call for the integration of women in the national development processes, an Act of Parliament in 1980 established a National Women's Council comprising 31 women from all over the country. The Council was mandated to serve as an advisory body to Government on issues affecting women. A Women's Bureau, headed by an executive secretary, was also set up to execute the policy decisions of the council.

28. Whilst the Bureau and the Council have provided an opportunity to empower women and to professionally address women's concerns, the National Women's Council has been politicized over the years resulting in a loss of focus. Instead of using the Council to transform the society in favour of women, it became the propaganda machinery of the Government of the day. Since its inception in 1980, the Women's Bureau has also been faced with a number of staffing and logistical problems, making it difficult for the Bureau to fulfil its mandate.

29. Presently, the Bureau is without leadership and is being overseen by the Women in Development (WID) Project Manager, who has to do this in addition to his other responsibilities. In addition to these hurdles, Government has redesignated the title of the head of the Bureau and the deputy from Executive Secretary and Deputy Executive Secretary to Director to bring the position into line with other departments.

30. On a more positive note, Government has made provision to absorb all project personnel in the Bureau with the phasing out of the WID project. With regard to the National Women's Council, Government has raised the subvention for allowances of councillors from D 90,000 in 1995/96 to D 300,000 in 1996/97. As part of the post-Beijing activities, it is also envisaged to train women councillors on group management and leadership skills.

31. On 22 July 1994, a new chapter opened in the Gambia's political history, when the Armed Forces Provisional Ruling Council (AFPRC) assumed the reins of Government. The country was ruled by the military (AFPRC), assisted by Cabinet ministers most of whom were civilians. The four-man council was made up of the Chairman, who was also the head of State, a Vice-Chairman, who was also the Minister of Defence, and two other military officers, also responsible for the Ministries of the Interior and Local Government.

32. A two-year transition period was drawn up to return the country to democratic rule by 1996. During the AFPRC transition era, the portfolio of Women's Affairs was removed from the Office of the Vice-Chairman and merged with Ministry of Health and Social Welfare with the position of Minister held by a female. The portfolio of Culture was also removed from the Ministry of Youth and Sports to the Ministry of Tourism, also with a female minister. The position of Minister of Education was also held by a female, as was the acting Minister of Justice during the latter part of the transition period.

33. Administration of the divisions and the two municipalities was in the hands of military officers who acted as divisional commissioners, Mayor of Banjul and Chairperson of the Kanifing Municipal Council. Chiefs and alkalolu continued to discharge their responsibilities at the district and village levels of administration.

34. In December 1996, the transition period was brought to a successful end ushering in the Second Republic. Females constituted 54.8 per cent of total registered voters during the elections that led to the Second Republic; however, there were no female presidential candidates. This may partly be explained by the cultural belief that only men are capable of leading. The only female who contested a National Assembly seat lost to a male, perhaps for the same reason.

35. The Constitution of the Second Republic vests the legislative functions of the Government to the National Assembly, comprising 45 elected members and 4 members nominated by the President. The executive branch of Government is headed by the President, who is also the Commander-in-Chief of the Armed Forces, the Vice President, who is currently female and also the Secretary of State for Health, Social Welfare and Women's Affairs, 11 other Secretaries of State (3 of whom are women) who are not members of the National Assembly, and a Speaker or, in his absence, a Deputy Speaker, also currently female. To date there is no female chief but there are 5 female alkalolu out of more than 1,800.

G. Social organization/structure

36. The Gambia, like many African countries, is a multi-ethnic nation with distinct socio-cultural characteristics, but with some common social affinities brought about by religion and inter-ethnic marriages. This augurs well for social cohesion and national unity, for which the Gambia is well known.

H. Religion and culture

37. Different value systems exist for different ethnic groups. Although the Gambia is a secular State, about 95 per cent of the population is Muslim. Christianity and other religions account for about 5 per cent. Traditional norms and value systems are influenced by Islamic principles. Often, the understanding of the role and status of women and children in traditional Gambian society demands an awareness of the entrenched social attitudes and values.

I. Ethnic composition

38. According to the 1993 Population and Housing Census the main ethnic groups in the Gambia are Mandinka (39.5 per cent), Fula (18.8 per cent), Wollof (14.6 per cent),

Jola (10.6 per cent), Sarahuleh (8.9 per cent), Serere (2.8 per cent), Aku (1.8 per cent), Bambara (0.7 per cent), etc. Concentration of this large number of peoples in a small land area of about 11,000 sq km is explained by the historical developments that took place within the subregion in the nineteenth century and the recent past. These include expansion of the Mandin empires, the Atlantic slave trade and general migratory trends that made the Gambia River Basin a destination for different ethnic groups.

J. Household structure

39. In general, Gambians live in large households ranging from about 6 persons in the urban areas to about 13.6 persons in the rural areas. These large household sizes are reflective of the extended family system. According to the 1993 census about 29 per cent of households are nuclear as against the 54 per cent that are extended and the 16 per cent composite. In the rural areas, the extended family system accounts for 59 per cent of the households compared to the 25 and 15 per cent of households for nuclear and composite families, respectively. In traditional Gambian society there exists the kabilo system, which is a cluster of households that generally have biological/social links, usually with an elderly male as the head of the cluster.

40. An important feature of Gambian households are inter- and intra-household transfers of resources as a coping strategy for subsistence. According to the 1993 Household Economic Survey, nationally about 4 per cent of total household income are inter-household transfers. The absolute range was D 36.00 per capita per annum for medium groundnut-farming households and D 242.00 per capita per annum for households headed by someone not in the labour force.

K. Social practices

41. Early marriage is a widespread practice in the Gambia. Although age at first marriage has been increasing over the years, it is still a problem that has to be tackled if the welfare of women and children is to be enhanced. In 1993 the mean age at first marriage increased to 19.5 years compared with 18.2 years in 1983. Early marriage is one of the most important limiting factors for increasing the girl child's education, subsequent skill development, employment and income. It limits the social choices of women. Other ills associated with early marriage are high infant and maternal morbidity and mortality, large family sizes and subsequent impoverishment. Although there has been an increase in age at first marriage, there is still a need for more sensitization on the subject, especially in certain localities, which have seen a negligible increase in the age at first marriage.

42. Female genital mutilation is also widely practised in the Gambia. Although its social and health hazards are being continuously exposed, the practice is still widespread. This is mainly due to confusion over the messages emanating from different sources. Some of these are misconceptions based on religion. More sensitization on the ills of FGM is needed if the elimination of the practice, as agreed by WHO and UNICEF, is to be attained.

L. General legal framework within which human rights are protected

43. The legal system is based on the received English law, which is common law and equity. Customary practices and the shariah also form part of the legal system. The judicial powers of

the Gambia are vested in the courts. These include the superior courts comprising the Supreme Court, the Court of Appeal and the High Court. The subordinate courts, consisting of the magistrates courts, the cadi courts, district tribunals and such other courts as may be constituted by law. The cadi courts have jurisdiction to apply the shariah in matters relating to Islamic marriages, divorce and inheritance.

44. The Chief Justice, who is appointed by the President, is the head of the judiciary. He is assisted by the Attorney General and the Secretary of State for Justice who is also appointed by the President. Currently, the Attorney General is a female, who serves as a Principal Legal Adviser to the Government and has the right of an audience in all courts in the Gambia.

45. In the exercise of their judicial functions, the courts, the judges and other stakeholders in the judicial system are independent and are subject only to the Constitution, which is the supreme law of the land, and other laws that apply in the country.

46. The main collaborative institution for the protection and enjoyment of human rights is the Attorney General's Chambers. The private bar also has a vital role in ensuring that private citizens have access to the courts, in order to address incidents of human rights violations.

47. The Constitution further guarantees the enjoyment of these rights to all Gambians and people living in the Gambia. Chapter 4 of the Constitution is entirely devoted to the fundamental rights and freedoms and the judicial remedies that are available for redressing their violation. Compensation for damages has been awarded to various petitioners against the police, the executive and other public bodies for violations of their human rights. Civil liberties have been restored on a number of occasions arising from unlawful detention, false imprisonment and so on.

48. However, the enjoyment of these rights is not absolutely guaranteed in periods of national emergency as well as in times of civil strife or other forms of conflict. Despite domestic recognition of international human rights instruments, the individual enjoyment of these rights is subject to the cultural norms and values.

49. In the application of Gambia's municipal laws, conformity to the international human rights conventions and treaties to which it is signatory is ensured. As such, in the event of conflict between municipal law and the international legal instruments, the latter often prevail. The case of Garrision v. the Attorney General (1992) where recourse was made to the provisions of the Universal Declaration of Human Rights and the African Charter on Human and Peoples Rights, is a case in point.

50. The Gambia hosts both the African Commission on Human and Peoples' Rights and the African Centre for Democracy and Human Rights Studies. However, there is as yet no national human rights institution specifically charged with the responsibility of monitoring the implementation of the human rights conventions, including the incidents of human rights violations. There is an emerging corps of human rights NGOs, such as Amnesty International Gambia Branch, Defence for Children International (Gambia Branch) and the International Society for Human Rights.

M. Information and publicity

1. Article 42 - Publicity about the principles and provisions of the Convention

51. The Convention has yet to attain the status of a household name, which is the desired objective of the Gambia as a State party to it. However, national and international institutions, including the United Nations agencies, continue to assist in this regard by promoting the participation of children and young persons in the implementation of various activities affecting their development. Such activities include the sponsorship of local competitions for children and printing pamphlets and other visual materials that serve as constant reminders to many literate Gambians about children and their rights.

52. The Population and Family Life Education Curriculum will significantly raise the awareness of children about population, health, vocational education, gender and concerns about the environment and reproductive health, once it is launched in 1998.

53. In view of the fact that the Gambia has a relatively low level of adult literacy (25 per cent of female and 53 per cent of males, according to the Central Statistics Department, 1993), greater efforts will be required to increase awareness of the Convention using literacy programmes as vehicles for information and dissemination.

54. The recent upgrading of Radio Gambia and the introduction of television services to provide nationwide coverage constitute important national benchmarks towards the fulfilment of the Gambia's obligation to increase the access of its people to information. The improved communication services are now being used predominantly for health and environmental awareness and the promotion of education and other civic rights and responsibilities. Target groups in the rural areas, which hitherto could not be reached, are now readily accessible through these media.

55. The use of local languages in adult literacy programmes has created increased awareness of and demand for post-literacy training, linked to life skills development. Furthermore the use of these languages at the formative stages of pre-primary and primary education will be even more efficacious for the attainment of education for all, albeit not by the year 2000.

56. Schools Broadcasting, children's TV programmes, family life education, social studies lessons and civic studies provide important avenues for ensuring the widest publicity and awareness of the Convention. The Schools Broadcasting programme in particular needs revitalization, in the context of the revised education policy. Such a nationwide sensitization initiative for children will have the added advantage of opening a dialogue on all key components and sectors affected by the Convention. Dialogue already exists on some aspects of the Convention, including:

(a) The provision of free and compulsory primary education;

(b) Age and sexual consent at marriage;

(c) The elimination of exploitation of domestic servants;

(d) The provision of informal skills training or apprenticeships, particular for women and girls;

(e) The need for greater male participation in agricultural production; and

(f) Civil rights and freedoms in relation to the child's opinion and parental rights to discipline them.

2. Articles 4, 42 and 44, paragraph 6

57. The Constitution of the Second Republic of 1997 has made attempts to address some of the requirements of the Convention. In considering legislation affecting children in the Gambia, one is confronted with several economic, social, cultural and religious problems. Since the Convention and other international instruments envisage a full and complete harmonization of domestic law and policy, the Government should initiate a complete review of the following legislation:

The Children and Young Persons Act, Cap 45 Laws of the Gambia 1990;

The Maintenance of Children Act, Cap 44:03 Laws of the Gambia;

The Criminal Code, Cap 10 Laws of the Gambia;

The Education Act, Cap 46.03 Laws of the Gambia.

58. Sectoral policies such as the National Education Policy (1988-2003) and the National Health Policy (1994-2000) have built-in mechanisms at the national level for the coordination of their policy objectives, as well as the monitoring of their implementation. However, what is lacking is a multisectoral monitoring and implementation agency for purposes of ensuring compliance with the entire Convention on the Rights of Children. It is therefore recommended that a National Commission for the Rights of Children be set up as a public institution with a secretariat which shall have mandate to:

(a) Ensure awareness of the existence of the Convention on the Rights of the Child as an instrument of policy;

(b) Coordinate the work of public agencies dealing with children to ensure their compliance with the provisions of the Convention;

(c) Assist them in formulating plans and mechanisms for implementing child-related policies and for monitoring the implementation of the Convention; and

(d) Ensure institutional support for public and non-governmental organizaitons seeking to achieve the aims, objectives and goals envisaged in the Convention.

II. DEFINITION OF A CHILD UNDER THE LAWS OF THE GAMBIA

59. This discussion on the definition of a child will further throw light on the measures which need to be taken to harmonize domestic laws and policy with the Convention. It is to be noted that the legislation affecting children as contemplated by the Convention's definition of a child varies in nature and scope.

60. There is no standard definition of a child in the laws of the Gambia. Several domestic laws dealing with children have different age limits for children. The Constitution, which is the supreme law, states under section 39 (1) that: "Every citizen of the Gambia being of eighteen years or older and of sound mind shall have the right to vote for purposes of elections".

61. There is no consensus on the definition of a child to cover such concerns as the end of the compulsory/basic cycle education, labour laws relating to full/part-time employment, minimum age at marriage, minimum age of enlistment in the armed and police forces, age of criminal responsibility, deprivation of liberty, imprisonment, consumption of alcohol or other controlled substances, medical counselling without parental consent. These need harmonizing with the conventional definitions, which state that a child "is a person under the age of 18 years."

62. There are a number of compelling reasons for having a uniform definition of a child under the Convention. If we are to rely on the Convention and similar international legal instruments, the age of 18 is the universally acceptable age of majority. Some important laws of the Gambia, however, seem to differ. Efforts must be made to harmonize these laws with the Constitution. It can equally be argued that since the Constitution is more recent than some of these laws, it should take precedence.

63. The above legislation is interrelated given the fact that if 16 is set as the minimum age at which any child can leave school, there will be little room for child labour and other forms of economic exploitation. Apprenticeship between the ages of 16 and 18 would still serve as a period of continuing education. Similarly, if the minimum age of marriage is stipulated as 18 this will help reduce the high maternal mortality rates among teenagers.

64. The Children and Young Persons Act, Cap 45 Laws of the Gambia, for example, defines a young person as: "A person who has attained the age of fourteen years and is under the age of seventeen". This law makes provision for the welfare of the young and the treatment of young offenders and for the establishment of juvenile courts.

65. A similar age limit is found in the Criminal Code, Cap 10 Laws of the Gambia, where a child is defined as: "A person below fourteen years of age". This is further qualified by the other age limits in the same Criminal Code, with 7 and 12 years being set for the age of criminal responsibility based on knowledge and understanding of a wrongful act or omission.

66. The Maintenance of Children Act, Cap 44:03 Laws of the Gambia 1990, which makes provision for the maintenance of children, defines a child as a person who is below 21 years old, or younger, if married, unless it appears to the Court that:

(a) The child is or will be receiving instruction at an educational establishment or is undergoing training for a trade, profession or vocation, whether or not he is also or will also be in gainful employment; or

(b) There are special circumstances including that the child is permanently disabled and will need care throughout its life.

67. Section 127 (1) of the Criminal Code also makes any person unlawfully convicted of carnal knowledge of any girl under the age of 16 years guilty of a felony and liable to imprisonment for a term of 14 years.

68. Section 23, subsection (2), of the Armed Forces Act, Cap 19 Laws of the Gambia, further provides that: "Where a person enlisting has not attained the age of eighteen years, his period of enlistment shall commence from the date he attains the age of eighteen years". The legislation also requires amendment so that any person below 18 should not be enlisted in the armed forces. This is a prudent suggestion given the tendency in some trouble spots within the subregion where child soldiers are becoming a common phenomenon. There is much evidence that tends to show the wisdom of adopting the age limit of 18 years for the purpose of defining a child in all the laws of the Gambia. Based on the constitutional minimum voting age of 18, it is desirable that all persons below 18 be classified as minors, thus establishing for all intents and purposes the age of 18 as the age of majority.

III. GENERAL PRINCIPLES

A. Article 2 - Non-discrimination

69. Chapter IV of the Constitution of the Gambia of 1997 deals with the protection of fundamental rights and freedoms of every person (sects. 17-33 inclusive). Section 33 (1) has a binding effect on all Gambians by restating in unequivocal terms that:

> "All persons shall be equal before the law. Section 33 (2) however attempts to qualify the above statement as follows: subject to the provisions of Subsection (5), no law shall make any provision, which is discriminatory either of itself or in its effect. The term discrimination is constitutionally defined in subsection 4 of section 33 as affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status."

70. It is evident that the Constitution did not completely satisfy the criteria set out in article 2 of the Convention in relation to elimination of all forms of discrimination against children. National laws which sanction discrimination on the basis of citizenship or qualifications for citizenship are a case in point.

71. Special mention must be made of the girl child in relation to the patriarchal realities of the Gambia. There is greater willingness and accommodation for the male child than the female child in relation to the enjoyment of these rights. Special emphasis should be made on sensitization for the purpose of protecting her rights under the Convention.

72. Refugee children or children of certain illegal aliens continue to face discrimination based on the origin of their parents or guardians. Section 33, subsection 5 (a), of the Constitution clearly affirms this position. Similarly, subsection 5 (c) and (d) of the same section further exclude matters of personal law such as adoption, marriage, divorce, devolution of property on death or other matters.

73. This departure from the spirit of article 2 is restrictive and an obstacle to the achievement of the objectives of non-discrimination. The Constitution of the Gambia is the foremost legislation that imposes such a restriction in the qualifying provisions of section 33. The personal laws of the Gambia are mainly Islamic laws and customs. Far-reaching implications exist where conformity with article 2 requires changing of laws which are considered immutable. There is further evidence of the entrenchment of section 33 and the entire chapter IV of the Constitution as far as amending provisions of the Constitution are concerned (see section 229 (1), (2), (4) and 7 (e) of the Constitution).

74. Discrimination against the girl child in matters of inheritance or predetermined share of property on death is also a gender-based practice under the Muslim personal laws of the Gambia. Legal adoption under the Adoption Act of 1992, Act No. 15 of 1992, is, however, satisfactory. Customary practices and not laws tend to be the predominant form of adoption with the full recognition of the supervisory authority of the adopting parent over the child. The State Department of Social Welfare also has a pivotal role in ensuring compliance with the provisions of the Act in all applications for legal adoption.

75. Marriage and age of marriage are another aspect of personal and customary laws of the Gambia. There is strong discrimination against the girl child as compared to her male counterparts with respect to age of marriage. While there is no doubt that male children tend to get married well beyond their twentieth birthday, it is common practice to marry a girl child below the age of 15 usually between the ages of 12 and 17 years. Although solemnization may not take place simultaneously with the consummation, many of these marriages are consummated before the girl reaches the age of 16, especially in rural areas. It is to be noted also that males tend to enjoy the freedom to determine the age at which they marry as well as to choose their marriage partners.

76. The Women's Bureau reveals that discrimination is an ethnic-based problem in most parts of the Gambia, prevailing among the Fula, Mandingo and Sarahuleh communities. Illegitimate children or children born out of wedlock are definite targets of discrimination. Even if they are cared for under the Maintenance of Children Act, they are often denied inheritance to the estate of the fathers. Islamic law sanctions this practice in much the same manner as customary law. Any attempts to legislate on the above-mentioned laws and customs need more than just outline legislative policy, there must be a political commitment and the will for the Gambia to exercise its right as a State party.

B. Articles 3, 4, 5 and 21 - Principle of the best interest of the child

77. The principle of the best interest of the child is a phenomenon of varied dimensions in the Gambia context. However, it is important to observe that legislative measures abound for the benefit of the judicial and other law enforcement agencies. The principal legislative enactment include:

The Children and Young Persons Act, Cap 44.83;

The Maintenance of Children Act (No. 11 of 1988);

The Wills Act, 1992, Act No. 15;

The Matrimonial Causes Act, 1986;

The Criminal Code, Cap 10;

The Adoption Act (Act No. 15 of 1992).

78. The protection afforded to children in the above laws, despite their inadequacies, clearly demonstrates a commitment to protect the best interest of the child. Under the Children and Young Persons Act, the administration of juvenile justice is premised on special protective measures for children who lack parental care, are neglected or abused, or lack a proper home environment for their emotional, physical and social well-being. The Maintenance of Children Act is similarly concerned with the general welfare of children, especially children of broken marriages, illegitimate children, or even children who lack proper parental care. However, a court is expected to provide maintenance for such children commensurate with the standard of living to which they will be entitled, having regard to the status of their parent. Both parents could be the subject of a maintenance order. However, a major drawback in this area is the Islamic law of personal status. The Islamic courts have continued to play a vital role in providing maintenance for children born to Muslim parents.

79. In divorce proceedings before the cadi courts, as they are commonly known, the best interest of the child is not always the criterion for granting custody to either parent, especially the mother. Age and sex seem to be crucial factors in determining which of the parents should have custody of a child. A male child below the age of seven and a female below nine years are almost invariably left in the custody of the mother. Once they attain this age, they are likely to be transferred to the custody of the father. The customary courts or district tribunals established under the District Tribunal Act, Cap 6:03 Laws of the Gambia, adopt similar practices as they apply a combination of customary and Islamic law. A child may be vulnerable to abuse, neglect and lack of proper care and attention, especially children in custody of the male party and stepmothers. Another aspect of the problem is the tendency of some mothers to misuse the financial provisions made under maintenance orders for purposes which do not reflect the best interest of the child as the principal beneficiary.

80. The Department of Social Welfare is a public institution which plays an important role in ensuring that maintenance is provided for children from vulnerable groups. Even though it lacks

institutional capacity in terms of sufficient manpower, it has continued to provide technical services for children. The Department tries to act as an honest broker to secure agreements between warring parents on issues to do with maintenance, access and custody for children.

81. Harmonization of the Maintenance of Children Act and the Islamic and customary laws is necessary for the realization of the best interest of the child. Section 29 (1) of the Constitution reads: "Children shall have the right from birth to a name, the right to acquire nationality and, subject to legislation enacted in the best interest of children, to know and be cared for by their parents."

C. Article 6 - The right to life

82. Section 18 (1) of the Constitution of the Gambia provides for the protection of the right to life in the following terms: "No person shall be deprived of his or her life internationally except in the execution of a sentence of death imposed by a court of competent jurisdiction in respect of a criminal offence for which the penalty is death under the laws of the Gambia as they have effect in accordance with subsection (2) and of which he or she has been lawfully convicted".

83. Juvenile offenders or young persons may be subjected to the death penalty if they commit serious offences that ordinarily carry the death penalty. They may, however, be detained in custody pending the exercise of the prerogative powers of the executive President of the Gambia. Section 11 (1) of the Children and Young Persons Act states that: "no child shall be ordered to be imprisoned".

84. Young persons may be imprisoned if they cannot be suitably dealt with through probation or fine. They may also be imprisoned provided they do not associate with adult prisoners. However, the death penalty should not be applicable to children or young persons absolutely and the Death Penalty Restoration Decree, 1995 (Decree No. 52/95) should be amended to reflect this view.

85. The Criminal Code has a number of protective provisions for the preservation of the life of children as vulnerable members of society. This ranges from conception to birth, through infancy to adolescence.

86. It is a criminal offence to abort a child under section 140 of the Criminal Code. Infanticide is an offence carrying a maximum penalty for manslaughter and the offence of child destruction is also punishable with imprisonment for life. Sections 197 and 198 of the Criminal Code refer. Sections 18, 19 and 20 of the Criminal Code also impose a duty of care on persons in charge of others; heads of families and "masters" are required to provide for their dependents, apprentices and children under the ages of 14 and 16, respectively.

87. Defilement of girls under 16 years and the offer of permission by a head of household of such an offence on girls below 13 years carry a maximum of 14 and 5 years' imprisonment, respectively. Section 127 (1) and 131 of the Criminal Code are the relevant provisions. However, under customary laws the marriage of a girl as young as 13 and the consummation of such a marriage is not regarded as a criminal offence.

88. Desertion of children below the age of 14 and neglecting to provide food to any child of tender age are serious offences under the Criminal Code and so is child-stealing, which is a felony punishable with imprisonment of up to seven years on conviction (see sections 155, 156 and 157 of the Criminal Code). The above and similar provisions in the Criminal Code clearly show a commitment to protect children from wilful and abusive conduct and omissions by adults who are legally obliged to care for them.

89. The Department of Social Welfare, while acknowledging the law with regard to punishment of offenders under the Criminal Code in this regard, tries to take a proactive, preventive stance by encouraging distressed people to come and discuss the problems in advance. It is often possible to offer alternatives for the care of children, including foster or community care.

90. Pornography and obscene publications are no exception. The Cinematography Act, Cap 32.03 Laws of the Gambia, makes it an offence under section 165 of the Criminal Code for any person to be engaged in the sale, distribution, hire, importation or public exhibition of any obscene book, pamphlet, drawing or painting. There is need for greater protective measures in the form of police and customs collaboration in the importation and distribution of such publications. The increased availability of home video players poses a problem for certain children who may have access to obscene or pornographic videotapes without the knowledge of their parents.

91. The inherent right of every child to life is guaranteed from conception to birth and thereafter by the Constitution and other laws of the Gambia. Section 18, subsection (1), of the Constitution guarantees the right to life.

92. Similarly, under section 198 of the Criminal Code, it is an offence punishable by life imprisonment for any person who wilfully destroys the life of a child capable of being born alive even before it has an existence independent of its mother. Infanticide and abortion are offences under the Criminal Code, the sole purpose being to preserve the life of a child.

93. Article 6 (2) enjoins States parties to ensure maximum survival and development of the child. This is a logical follow-up to the preceding article on the right to life. In consonance with the Convention, the legislative protections for the enjoyment of these rights complement the broad objective principles for their achievement. The Gambia is a relatively poor country with a very small natural resource base.

94. Despite these constraints, the Maintenance of Children Act, the Matrimonial Causes Act and the Criminal Code have laid down laws for the provision of maintenance care and other social rights. Institutional support available to children includes social welfare, the judiciary, the Police Child Welfare Unit and health workers who are there to ensure compliance. Section 4 of the Maintenance of Children Act, Cap 44:03, imposes a duty to supply the necessaries of health, life and a reasonable education on those who have the primary duty to maintain a child. This law is gender sensitive to the extent that a man or woman may be the subject of a maintenance order.

95. The maximum survival requirement is further evidence of the parental duty to provide for the physical, moral and spiritual upbringing of the child. Food, clothing and shelter, education

and health care are included. Obstacles to the optimal realization of these rights include inadequate institutional support and access to social welfare services, which are more urban based than rural.

96. The Social Welfare services should be further decentralized in order to increase awareness of its role and statutory functions among the rural communities of the Gambia. There is no doubt that this is the most effective public institution that could ensure proper monitoring and implementation of policies and strategies for the enjoyment of these rights. Collaborative efforts with the police, schools, courts and NGOs would be desirable.

D. Article 12 - The child's opinion

97. The right of children freely to express themselves within the Gambia is guaranteed by the Constitution. However, it is evident that customs and traditions tend to inhibit the enjoyment of this right. Children are mostly reduced to passive recipients of information and are also required to carry out orders without asking questions.

98. The columns of the major newspapers such as the Daily Observer, The Point, Gambia Daily and Foroyaa have been experiencing a record increase of contributions from children on various issues of national concern such as politics, education, literacy, teenage problems and so on.

99. Peer education and other more progressive forms of social enlightenment encourage children to express their views on a range of issues, which is of benefit to them. Thus, the ability of children to develop their knowledge, critical thought and belief systems is encouraged by the development of academic pursuits.

100. The opinion of a child is also given legal recognition in the Evidence Act, 1994 by allowing children to testify in judicial proceedings without swearing an oath. However, such evidence is admissible only if there is further corroborating evidence. One must also emphasize that parents in the Gambia should develop a positive attitude of allowing children to express their opinion on certain aspects of their physical and social development, including educational and career objectives.

IV. CIVIL RIGHTS AND FREEDOMS

A. Article 7 - Name and nationality

101. Children in the Gambia generally enjoy the right to a name and nationality. The former is a birthright of every child in keeping with both religion and custom. However, some children born out of wedlock may be denied their paternal names and may encounter inheritance or nationality problems.

102. Section 29 (1) of the Constitution reads: "Children shall have the right from birth to a name, the right to acquire nationality and, subject to legislation enacted in the best interest of children, to know and be cared for by their parents".

103. Section 9 (1) of the Constitution also reads: "Every person born in the Gambia after the coming into force of this Constitution shall become a citizen of the Gambia at the date of his or her birth if, at the time of his or her birth, one or both of his or her parents is a citizen of the Gambia".

104. Section 9 (2) reads: "A child of not more than seven years of age found in the Gambia whose parents are not known shall be presumed to be a citizen of the Gambia by birth".

105. It is manifestly clear that children are constitutionally guaranteed citizenship if they fall within the protection of section 9 (1) and section 10, which guarantees citizenship by descent of children born to Gambian parents outside the Gambia. There is also protection from statelessness of children found in the Gambia and whose parents are unkown, provided they are below the age of seven.

106. The Nationality and Citizenship Act, Cap 16:01 Laws of the Gambia, section 4 (1), empowers the Minister (Secretary of Sate) to register the minor child of any citizen of the Gambia upon application by a parent or guardian. Section 4 (2) also empowers the Minister, in special circumstances as he thinks fit, to register any minor as a citizen of the Gambia. It is to be noted that a minor for the purpose of this Act is defined as a person who has not attained the age of 21 years.

107. The Births, Deaths and Marriages Registration Act, Cap 41:01 Laws of the Gambia, also make provision for the registration of births and deaths. Even if this is available, it is not frequently used, especially in rural areas. There is, however, a growing awareness of the importance of registration of births especially for purposes of school enrolment, national identification, health and banking services, acquisition of passports and so on.

108. However, a birth certificate does not guarantee citizenship to children born in the Gambia if one or both parents do not possess Gambian citizenship at the time of the child's birth. Children whose parents are aliens are entitled to the nationality of their parents. However, discriminatory tariffs for health services at public clinics and health facilities apply to non-citizens, the exception being paediatric services for children under five years and health care for refugees, which are free.

B. Articles 13, 14, 15 and 17; section 25 of the Constitution - Freedom of expression, thought, conscience, religion and association

109. Religion and its practice are guaranteed. Children are not under compulsion to attend religious ceremonies and services. They tend to pursue religion through the examples of their parents. Attendance at weekly Friday prayers for Muslims and Sunday service at churches demonstrates the commitment of Gambian children to their faiths.

110. Freedom to assemble and demonstrate peaceably is gaining momentum among Gambian children. Apart from youth, social and football clubs, which enjoy nationwide popularity, children are beginning to realize the need for patriotic reorientation through voluntary schemes, such as the President's Award Scheme, the Boy Scouts, Red Cross and Red Crescent Societies

and organizations devoted to combating harmful practices such as the I.O.G.T. (International Organization of the Good Templers) and the Youth Front Against Alcohol and Drug Abuse. The National Union of Gambian Students enjoys nationwide membership from primary, junior, senior secondary schools and the Gambia College. Its executive encourages democratic practices in its management. Its network strives to keep students informed of their rights, duties and the responsibilities of the Government towards students, using a periodic publication and interpersonal communication channels. Meaningful dialogue with educational authorities has helped to promote a climate of trust and better understanding of students' problems.

111. Children may not join political associations and trade unions. However, political activities among adolescents and youths are not uncommon. Most political parties have youth wings which promote the ideals of the various political parties and responsible governance. The July 22nd Movement has a wide youth membership, especially among those who have attained 18 years, which is the voting age.

112. Domestic servants or maids are a special category of workers in need of trade union services. The majority of these employees are girls of school age or teenagers below 18 years. They lack security of tenure, suitable working conditions, a basic minimum wage, etc. Their low social status exposes them to abuse, violence, and inhuman and even cruel treatment. A minimum age for work would be desirable to protect these children from economic and physical exploitation and hazardous working environments.

C. Article 23 - Disabled children

113. Children with a disability are entitled to enjoy a full life and all other opportunities accorded to other children. The Gambia recognizes this right as inalienable despite obvious constraints. The infrastructure and legislative and administrative support for the realization of this objective is already in place. Section 31 (1), (2) and (3) of the Constitution guarantees State and societal recognition and respect for the rights and dignity of the disabled and their protection from exploitation and discrimination. Particular in this regard is their right and access to health services, education and employment opportunities.

114. Health care and services are guaranteed to all citizens within the health care delivery system of the State. Disabled persons are often afforded special care in orthopaedic, ophthalmic and rehabilitation services. According to 1998 statistics, the Rehabilitation Unit of the State Department of Social Welfare has about 4,000 disabled patients. Fifty to 55 per cent of these are under 17 years old. The school for the visually impaired and hard of hearing is established with the primary objective of providing special needs education for children.

115. A good number of this group are now gainfully employed as musicians, telephonists, teachers and interpreters in the public sector. Wheelchair-bound disability does not prevent disabled children from enrolling in the school system and pursuing various careers of their choice.

116. The Gambian Organization of the Visually Impaired (GOVI) is an active NGO with strong government support. It is constituted by a largely disabled executive and it now serves as

a vital lobby for the visually handicapped in the areas of employment and general welfare. Cultural stigmas and inadequate institutional support for the disabled in the traditional social system relegated most disabled adults to the undesirable habit of begging.

117. However, the growing social awareness of the abilities of and professional care for the disabled is rapidly transforming the opportunities for disabled children in the Gambia. The Government is for the first time conducting a national disability survey with UNICEF's assistance in order to determine the forms and geographic distribution of persons with disability to facilitate programme planning in this area. The achievement of the goal of ensuring equitable access to opportunities for its citizens is financially demanding and consequently little can be achieved, especially in this highly specialized area, without donor support and collaboration.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Article 19 - Abuse and neglect

118. There is no nationally agreed definition of abuse binding on public and law enforcement agencies, nor have categories of abuse and neglect been agreed, so the words "abuse" and "neglect" could mean different things to different people. For the purposes of this report, abuse and neglect would include physical maltreatment and lack of provision of food, clothing and shelter. Physical abuse and neglect are among the challenging social phenomena in the Gambia. Although both the Constitution and the Criminal Code prohibit child abuse and neglect, the enforcement of these laws is inhibited by social norms and practices, as already mentioned.

119. Section 29 (1) of the Constitution specifically provides that: "Subject to legislation enacted in the best interest of the child to know and be cared for by their parents".

120. Sections 18, 19, 210, 211 and 218 of the Criminal Code had created offences relating to child abuse and neglect. These vary from the duty to take care of a child of tender age, provision of the necessities of life, assault, ill-treatment, neglect, abandoning of a child below the age of 14 years, etc. This responsibility is only bestowed on persons above the age of 16 years. The duty to preserve the life and health of a child is a legal duty and it could be argued that children in the Gambia are already accorded that protection.

121. This assumption is not, however, conclusive. Abuse and neglect of children can only be redressed if they are reported. Many cases of abuse and neglect go unpunished simply because the victims are unable to take such steps, or they may be ignorant of the existence of such institutional facilities.

122. Parental authority and traditional practices that condone child abuse in the thin guise of discipline are readily accepted as a natural right of a parent. This in turn engenders fear in victims of abuse who often suffer in silence. The end result, according to some Social Welfare reports, are mood disorders, emotionally traumatized children and other personality disorders, which may affect the victim well into adolescence.

123. Schools, children's rights NGOs such as Defence for Children International, Soroptimist International, SOS Children's Village, and other community-based groups are among the

institutions which could serve as a means of addressing the problem of abused and neglected children. Schools, however, can sometimes be the sites of physical abuse. Also in line with tradition, parents believe they have the right to discipline their children in order to ensure proper moral and physical upbringing. These traditional practices, however, should not be used as a licence for child abuse. Although spanking a child is a long-standing norm in our society, it must be done with moderation.

124. Sections 13 and 16 of the Children and Young Persons Act sanction the punishment of children in conflict with the law. This includes the power of a juvenile court to order the whipping of a young offender by way of caning up to 10 strokes. However, a female offender over 13 years may not be subjected to caning. Such correctional measures may not constitute child abuse. Sensitization and better communication may help to improve a child's upbringing and thus reduce the incidence of spanking.

B. Article 9 - The right to non-separation from parents

125. In addition to the power of the Director of Social Welfare to assume guardianship of abandoned and neglected children, the Maintenance Act, the Matrimonial Causes Act and the Adoption Act empower the court to make orders for custody and access by both parents of a child in the best interest of the child (see supra. section 14 (1) and (2) of the Maintenance Act).

126. There are instances which require judicial intervention to ensure that access or custody orders are obeyed. In practice, it is sometimes difficult to guarantee this right to a child who is born out of wedlock or whose parents are divorced or separated. There is also an increasing trend of parents taking children out of the jurisdiction without appropriate legal guarantees for regular return visits to the parents resident within the Gambia.

C. Article 10 - Family reunification

127. Section 25, subsections 2 and 3, of the Constitution provide, inter alia, that:

> "Every person lawfully within the Gambia shall have the right to move freely throughout the Gambia and to choose his or her own place of residence within the Gambia and to leave the Gambia."
>
> "Every citizen of the Gambia should have the right to return to the Gambia."

128. Internal freedom of movement of children is often dictated by social and economic factors, which are beyond their control. Educational institutions and opportunities are concentrated in the urban areas, thus compelling several children to leave their parents in rural areas to come into foster care or guardianship of close family relatives or friends. The environment to which some of these children is exposed may well contribute to their emotional, social or educational success or failure.

D. Article 27, paragraph 4 - Recovery of maintenance for the child

129. The domestic law adequately covers the requirements of the Convention insofar as maintenance rights of a child are concerned. The Maintenance Act is a statute of general application, which cuts across religious, social and ethnic lines in the Gambia. It empowers all the subordinate courts, including magistrate courts, Islamic courts and district tribunals (customary courts) to enforce maintenance for children. This includes the duty to supply the necessaries for health, life and a reasonable education of a child.

130. Despite being a statute of general application, the Act gives exclusive original jurisdiction to hear and determine all applications regarding custody of and access to the offspring of Muslim marriages to the district tribunals and Islamic courts. Section 3 (1) of the Maintenance Act is the relevant provision of the law.

131. Recovery of maintenance for children is problematic. The judicial machinery is the main medium for the enforcement of this right. The State Department of Social Welfare through its Family Welfare Unit provides official assistance to persons seeking maintenance. Women rather than men are the usual applicants for maintenance (about 98 per cent, according to Social Welfare sources). Children's education, food and health care are the usual reasons for applications for maintenance.

132. The departmental approach of the Family Welfare Unit is designed to promote harmony between parties to an application for maintenance, with the courts as the last resort. A remarkable success rate of about 90-95 per cent has been achieved. Parents who refuse to provide maintenance may be subjected to attachment of earnings orders or warrants of commitment to ensure compliance with the law. The number of such cases registered with the courts stood at 5 per cent as at August 1998. Voluntary compliance is, however, on the increase due to increasing awareness of parents of their obligations to their children.

E. Article 20 - Protection of a child without a family

133. The Convention requires States parties to take measures to ensure that all children have the right to a family environment. The Gambia is fortunate in that indigenous social structures hardly allow children to suffer deprivation in this area. This does not imply that children are wholly free from this problem in the Gambia. Single-parent children are mainly deprived of the emotional support of both parents in cases of divorce. Generally, the social stigma of illegitimacy is likely to produce an emotional and psychological trauma on children.

134. The extended family system has served as the most effective source of support for most orphans rather than institutional care. Destitute children tend to originate from neighbouring countries rather than from the Gambia. The Department of Social Welfare and the SOS Children's Village (an international NGO) provide institutional support for orphans and abandoned children, although their facilities are urban based. The Department of Social Welfare has recently mounted a successful foster-cum-community-care scheme to provide alternatives to automatic institutional care.

135. Islamic law and custom also emphasize care of the orphaned and abandoned children, hence the wisdom of societal benevolence to such unfortunate children. There is a gap in the legislative framework for the protection of the right of children deprived of a family environment. Children born out of wedlock are generally considered to be the responsibility of their mother and the maternal relations for their maintenance and general welfare, under Islamic law. Where by order custody is vested solely in the mother of a child born out of wedlock, then by implication she alone has to bear responsibility for maintenance.

136. There is a growing willingness by the customary courts to order maintenance against the putative father of such a child. The only practical constraint, according to the 1998 report of district tribunals in the Western Division, is the inability to grant custody to the father even if he is providing maintenance for his child.

137. The Department of Social Welfare recorded 562 family cases for 1997. These include maintenance cases, paternity, access, custody and counselling. In 1997 there were 303 recorded cases of destitution. In the first week of January 1998, the pending cases fell under the following categories: 53 per cent were clients seeking financial assistance, while 47 per cent were concerned with disputes involving child maintenance, access, custody and paternity. The fact that the majority of cases had to do with application for financial relief simply reflects the administrative arrangements, which tend to slow down the processing of other cases.

138. Further assessment of the 47 per cent of family cases shows that 76.5 per cent were maintenance cases, the majority being settled by agreement between the parties; 12.5 per cent were paternity cases (for referral to the courts); 4.9 per cent were access disputes (usually going hand-in-hand with maintenance disputes); 1.5 per cent were combined cases involving some or all of the above issues; 4.5 per cent were other types of cases, sometimes involving international social services or personal counselling.

F. Article 21 - Adoption

139. The monitoring of informal adoption, which is common practice in the Gambia, is not up to the desirable levels contemplated by the Convention. The Adoption Act does not seem to have a widely acceptable nationwide applicability among certain communities.

140. Customary practices of adoption are significantly distinct from legal adoption in the consequences which apply. Most customary adoptions do not transfer parental rights absolutely. They are at best a temporary delegation of parental authority and guardianship rights. The parties to such customary adoptions usually enter into the agreement with the full understanding that the adoption does not extinguish the rights of the natural parents.

141. Revocation of customary adoption may be contingent on diverse reasons and may not adequately cater for the physical and emotional needs of a child. The rural to urban trend is mainly responsible for these problems. There is a greater tendency for rural children to be given up for adoption or to be placed in the care of an urban resident or relative without regard for their health, safety and general well-being. Most of these children grow up without proper emotional and psychological support from their guardians or adoptive parents.

142. It is therefore recommended that the contents of the Adoption Act should be given widest publicity within the Gambia with emphasis on the rights of the child. These social rights to a proper home environment and parental support and care must be emphasized. Adoptive parents or guardians must appreciate the fact that the children need emotional support and not merely the satisfaction of physical needs of food, clothing and shelter. Deprivation of these rights may constitute a violation of the fundamental rights of children. Wardship and guardianship are more prevalent in the Gambian social set-up whereby children are placed in the care of relatives or family friends either for purposes of education or for other social and economic reasons.

G. Article 39 - Physical and psycho-social recovery and social reintegration

143. With the absence of an agreed definition of abuse (including acceptable or unacceptable forms of corporal punishment), it is difficult to quantify the degree to which this is a problem in the Gambia. However, if the numbers of referrals to the Department of Social Welfare are any guide, it would be true to say that psycho-social abuse was more prevalent, especially in cases of young schoolgirls being forced into marriages.

144. The Child Welfare Unit, in collaboration with some women's NGOs, has made attempts to rescue such victims through counselling and other legally enforceable means. It is noteworthy that young people aged 14-24 years constitute about 23 per cent of the Gambian population.

VI. BASIC HEALTH AND WELFARE

145. The National Health Policy and the Health Action Plan, 1999-2003 remains the focal blueprint for the realization of targets of reduced infant and maternal mortality and improved reproductive health of adolescents and related fertility problems.

146. Government's efforts in these plans are advanced; the population growth is currently estimated at 4.1 per cent per annum which, if sustained, will cause the population to double every 17 years. The Gambia has a population density of 95 persons per square kilometre of habitable land (1993 census).

147. The Health Sector in the Gambia has always attracted Government's attention despite resource constraints. Significant donor support and NGO and private individual initiatives have sustained primary health care and adolescent health programmes. The articles of the Convention dealing with basic health and welfare of the child are indeed wide in scope. It is therefore pertinent to underscore the need for reliance on official data and information.

A. Article 24 - Health and health services

148. A healthy nation is a prosperous nation. The Convention on the Rights of the Child would be incomplete without the fundamental right of every child to health and health services commensurate with the national resources of the State party. The Gambia's health sector programmes are mainly targeted at children, women and adolescents. There is no gainsaying

that a country with a youthful population will certainly compound its demographic imbalance. The number of children under 12 years is significantly high. These and other projections leave us with the formidable task of maintaining high standards of health care delivery.

149. The Public Health Act, Cap 40:03 (1990), encompasses laws relating to physical, environmental, disease control, food safety and hygiene, sanitation and related health matters. The National Environment Agency (the Agency for the implementation of the National Environmental Action Plan (GEAP)) seeks to strengthen health care and preventive measures for disease control. The linkages between poor environmental management and disease control are obvious.

150. The enjoyment of children's right to health and health services is accorded high priority within the health sector. A National Health Policy 1994-2000 and the Health Action Plan 1999-2003 were conceived against the background of Health for All by the year 2000, the global health objective of the World Health Organization for developing countries.

151. Primary health care (PHC) was first adopted in 1978 and remains the basis of the National Health Policy. Among its major components are maternal and child health, including the expanded programme of immunization (EPI), disease prevention and control and health promotion. Over the years, there have been conscious efforts by the Department of State for Health, Social Welfare and Women's Affairs, in collaboration with other partners such as WHO, UNICEF, UNFPA and related NGOs, to address the high under-five mortality of 120/1,000 births and maternal mortality rates (MMR) of 10.5/1,000 live births. This has been possible through Safe Motherhood and Child Survival programmes.

152. Child Health, a component of the Family Health Programmes, includes the following:

Maternal and child health/family planning;
Adolescent health;
EPI;
Nutrition.

153. The targets of the Family Health Programmes are to reduce MMR to 6/1,000 live births, infant mortality from 92/1,000 to 70/1,000 births, and to increase contraceptive use (modern methods) from 7 per cent to 15 per cent by the year 2003.

154. The major childhood diseases, namely malaria, acute respiratory infections and diarrhoeal diseases, together, are responsible for 60 per cent of the deaths in this age group. These three diseases are being addressed through separate control programmes. The policy direction is to address childhood illnesses in a holistic manner through the Integrated Management of Childhood Illness (IMCI) approach.

155. There is a close interrelationship between maternal health, adolescent fertility and family planning issues. The high incidence of adolescent fertility, as shown in the 1988 Adolescent Fertility Survey, reveals that 50 per cent of single males and 30 per cent of females in the age group 14-24 are sexually active. The consequences are increased teenage pregnancies, poor child health and a corresponding increase in infant and maternal mortality.

156. Although societal norms and values may be the biggest obstacles to family planning, there is a growing awareness among adolescents of the benefits of family planning throughout the Gambia. Peer education and counselling on teenage pregnancies, STD and HIV infections have had an impact on the use of contraception and other family planning services.

157. The Gambia Family Planning Association, a member of the International Planned Parenthood Federation (an NGO), has been active in providing services and access to confidential sexual and reproductive health information, services and counselling.

158. Harmful traditional practices such as early marriages (in rural areas, 12-15), female circumcision (FGM) and certain post-natal rituals tend to aggravate the risk of maternal and child morbidity and mortality. The First National Action Plan for the Eradication of Female Genital Mutilation was launched in March 1997. Despite great publicity, counselling efforts by local NGOs, especially The Gambia Committee on Traditional Practices (GAMCOTRAP) and the Foundation for Research on Women's Health, Productivity and the Environment (BAFROW), there is resistance from some Islamic scholars and traditional men and women leaders. Recent calls for legislative intervention by Government to eradicate FGM have not met with any success.

159. It is to be noted that despite policy efforts and government commitment, the greatest constraint in the realization of these noble objectives is the lack of financial resources. Primary, secondary and tertiary health expenditure have registered significant declines despite donor support, which invariably also registered a decline from 1994. Per capita expenditure decreased from D 65 (US$ 6) to D 45 (US$ 4.5) between 1990 and 1996. Total expenditure on health in 1996/97 was only 2.2 per cent of GDP, which was about 5.7 per cent of the total government expenditure. Overdependence on external assistance for health financing estimated at 62 per cent is potentially detrimental to the sustainability of the services when such aid is not forthcoming.

B. Articles 26 and 18, paragraph 3 - Social security and childcare services

160. There is no public social security system in the Gambia when we consider the institutionalized social security system of developed countries. The Maintenance Act, which is largely administered by the State Department of Social Welfare, commands very little public financial support for children's welfare. The legislative framework is merely designed to ensure maintenance of children by parents or persons with the legal duty for their care.

161. Childcare services provided by the Department of Social Welfare, the Department of Community Development and other private and public agencies are not adequate, especially in the rural areas. The only institutionalized childcare facility (that is for children in need of special protection) is the SOS Kinderdorf Children's Village (an international NGO), which houses orphans and destitute and abandoned children. The emphasis is on the enjoyment of the right to a home environment and proper upbringing, including health care and education. There are over 100 early childhood education and care centres in the country, located mainly in the urban and growth centres, and most lack adequate support.

162. The above scenario is further underscored by a lack of trained personnel, especially doctors and medical auxiliaries.

163. Eighty per cent of Government-trained Gambian doctors have left the public service. Certainly the most viable means of achieving policy targets is through health promotion and protection. The Information, Education and Communication initiative of the Health Education Unit of the Department of Health Services envisages reaching a national target of 80 per cent coverage by 2003 to ensure that the population is better informed about the health implications of their attitudes and behaviours.

164. A healthy childhood through adolescence needs a healthy environment, proper nutrition, sound education, physical and emotional health and recreation. In spite of the constraints, the extended family system remains the most practicable form of social security in the Gambia. However, increased urbanization (40 per cent) and the correspondingly high dependency burden cannot sustain this practice for ever. Efforts must be made to ensure the right of children to some form of social security by law. The States parties to the Convention on the Rights of the Child must live up to the universal realities that children are a common heritage with limited capacity for self-preservation and survival. The State should be the springboard in this area for rallying the private sector, NGOs, religious organizations and civil society to ensure their survival.

C. Article 27, paragraphs 1-3 - Standard of living

165. The relative concept of standard of living of children is subject to many factors. The Gambia, which is a developing country with per capita GDP of US$ 320, is therefore highly vulnerable to economic problems. According to the 1998 Situation Report of Women and Children, 40 per cent of the population are below the food poverty line. However, the total fertility rate (TFR) according to the same report registered a decline from 6.4 in 1993 to 6.0 in 1998.

166. Malnutrition is a potential complicating factor for all childhood diseases. The Department of State for Health estimates (Nutrition Surveillance of Primary Health Care Villages) reveal that 12-18 per cent of children are acutely malnourished, i.e. below 90 per cent median weight for height. Moderate to severe malnutrition ranges from 1-4 per cent during the late rainy season (August/September), with weaning children 7-23 months in the highest risk category. Anaemia and iron deficiency are also common among children of school age.

167. Income disparities account for disparities in the standard of living of children. Poverty alleviation efforts and education are under way with World Bank and other donor support to bring meaningful results for low-income earners and families. Social factors that tend to adversely affect children and their standard of living are early marriages, lack of family planning, dependency and polygamy. Male dominance in economic activity with inadequate responsibility for family care and maintenance disempowers women who are largely domesticated with the burden of most household obligations.

168. Attempts to enact legislation for Muslims in matters relating to marriage have not met with any success since 1987. The Muslim Marriages and Divorce Bill, 1987, sections 19 and 20,

seeks to make it a condition that the consent of the wife be obtained by any man wishing to take a second or third wife. The direct and indirect impact of these practices on children cannot be ignored. Legislation of this nature holds the answer to this problem. An early enactment before 2000 is recommended. Education opportunities and adequate shelter or nutrition are almost impossible to achieve for most children whose standards of living are diminished by irresponsible parental conduct.

D. Article 19 - Abuse and neglect

169. The obvious problems and constraints facing children in the Gambia in the context of article 19, as regards abuse and neglect, are as follows. The lack of capacity for self-development is mainly due to the drawbacks of the educational curriculum, which lays heavy emphasis on academic rather than vocational education. Those who drop out of the formal school system are the victims of these problems. Consequences of this problem are idle youths without jobs, a potential reservoir of talent that is wasted, and all sorts of evils such as child prostitution (for girls), teenage pregnancy, alcohol and drug abuse.

170. The lack of institutional capacity for dealing with the above problems requires immediate attention. Vocational and skills training for girls and boys below 17 years must be enhanced in both qualitative and quantitative terms. Given the demographic trends, greater social evil could be averted if legislative measures are put in place to address the following concerns: children below 18 years should remain in school until their eighteenth birthday; education must include both academic and vocational/technical education; laws dealing with the sale, trafficking and distribution of alcohol and narcotic substances to young people should be strengthened and vigorously enforced, including section 54 (1) of the Drug Control Decree and Decree No. 80 of 1996, which provide that:

> "A person commits an offence if he supplies or distributes a controlled drug to a child or young person as defined in the Children and Young Person Act, Cap 45, to a mentally handicapped person, to a person who is undergoing treatment for detoxification, or in a school, penal institution, educational or a social service institution or in the immediate vicinity of such places to which children and students resort for educational, sports or other recreational activities. An offender under this subsection shall be liable on conviction to a fine of not more than D 500,000 and in addition to a term of not less than 10 years' imprisonment."

171. The liquor licensing laws must be strengthened with stiffer penalties for the supply and sale of alcohol and other harmful substances to children below 18 years. This law must cover wholesalers, retailers and proprietors of public houses.

172. The prevalence of child prostitution and teenage pregnancies may have been aggravated by inadequate access to youth-friendly family planning and psychosocial counselling services. There is an urgent need to formulate the right of sexually active adolescents between 14 and 18 years to family planning facilities, with or without parental consent. Many parents who would ordinarily detest such access would prefer them to having their daughters drop out of school due to unwanted pregnancy. Such a law should not be seen to be promoting permissive behaviour.

173. Population activities and maternal health initiatives, such as Family Life Education, which is widely promoted in the school curriculum, could help to facilitate the need for adolescents to avoid premarital sex, early marriage, unwanted pregnancy, immoral peer pressure, and the dangers of STDs, including HIV/AIDS.

Almudus

174. "Street children", as they are commonly known in the Gambia, are a good example of abused and neglected children. Many of them are boys from neighbouring countries like Senegal, Guinea and Mali in the country under the guise of studying under Islamic tutors, known as marabouts. However, the majority of such children are actually Gambians. They do not enjoy parental support or affection, - a gross violation of the Convention on the Rights of the Child, especially articles 5, 9 and various others. Although this practice is traditional in nature, it cannot be sustained in the cosmopolitan urban environment due to the potential exposure to more serious social hazards such as drug trafficking and economic exploitation. These street children are usually between the tender ages of 6 and 15 years. Due to pressure from their masters, some of them are engaged in criminal activities such as stealing. Others engage in menial jobs, such as shoe-shining, car-washing and other undignified chores, for their survival.

175. There is a compelling need for legislation to keep almudus off the streets as beggars and child labourers. Punitive sanctions and corrective measures should be taken to ensure that these innocent children pursue their lives with dignity and respect. A policy directive banning them from the above practices was issued in 1995 but since the birth of the Second Republic in 1996, the momentum has not been sustained. A project conducted jointly by International Society for Islamic Relief and the Nova Scotia-Gambia Association has given Gambian almudus a new start in their home villages. A multidisciplinary approach will be required to tackle this problem. This should include Social Welfare, the police, immigration authorities and religious bodies. Cross-border movement of children without their natural parents must be addressed through bilateral cooperation to ensure that children are not taken from one country to another only to be abused and neglected.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education and the aims of education (arts. 28 and 29)

176. This is a guaranteed right for every Gambian child as provided for in the Constitution of The Second Republic, 1997. Section 30 reads:

> "All persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realization of that right: (a) Basic education shall be free, compulsory and available to all; (b) Secondary education, including technical and vocational education shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education; (c) Higher education shall be made equally accessible to all; on the basis of capacity by every appropriate means, and in particular, by progressive introduction of free education;

(d) Functional literacy shall be encouraged or intensified as far as possible; (e) The development of a system of schools with adequate facilities at all levels shall be actively pursued."

177. Although this constitutional measure seeks to ensure that universal "free and compulsory" primary education is available to all Gambian children, this has yet to be achieved. The following table reveals the current enrolment rates:

Education statistics, academic year 1996/97

(Source: Department of State for Education.)

		Ratio	Number of children enrolled in primary school
Gross enrolment rate (GER)	Total	70%	132 481
	Male	79	74 777
	Female	61	57 704
Net enrolment rate	Total	58	109 994
	Male	65	61 523
	Female	52	49 397

GER % by geographic region	Banjul/ Kanifing Municipal	Western Division	North Bank Division	Lower River Division	Central River Division	Upper River Division
Total	90	81	63	85	65	41
Male	111	89	75	99	75	48
Female	68	74	52	70	56	34

Children reaching grade 5: 89 per cent

Children entering grade 1 at recommended age (7 years old): 60 per cent

178. There has been an unprecedented increase in primary and secondary schools in the Gambia between 1994 and 1996/97. While urban schools experienced excessive demands for places, some rural schools suffer from underutilization. The teacher/student ratio in urban and growth centres and in most rural schools is 55-70 students per teacher and 0-30 students per teacher, respectively. A direct consequence of this trend is heavy recurrent expenditure on teachers' salaries, which are generally considered unattractive, resulting in a high rate of teacher attrition. Expenditure on other services such as teaching materials has suffered a remarkable decline due to population growth.

179. Among the other obstacles to the realization of the goal of free and compulsory primary education is the lack of a legal framework for its enforcement. Since the Education Act requires enrolment at public school for children age seven and above, a basic cycle of six and three years would be ideal for compulsory school up to the age of 16 years. A precondition for achieving this objective is the availability of schools and classroom space.

180. Additional constraints include:

(a) The new challenge of the maintenance of the many recently constructed primary schools;

(b) The disparity of teaching aids and materials between rural and urban schools, public and private schools and primary and secondary schools;

(c) Indirect costs, including book rentals, development funds, furniture and teaching materials;

(d) Transportation to and from school is not available nationwide. School bus services are limited to urban areas;

(e) The madrasah or Islamic schools' curriculum is biased in favour of religious studies and is not broad-based enough, often excluding vocational and science education;

(f) Negative attitudes to Western-type education rooted in custom prevail, especially for girls' education.

181. The blueprint for the realization of the right to education is the National Education Policy 1988-2003. The policy was revised in 1995 as part of the Education For All Mid-Decade Review.

B. Education policy priorities and objectives

182. The current National Education Policy for the period 1988-2003 places emphasis on the provision of quality basic education for the school-age population of 7-15 in the formal sector and for out-of-school children and adults in the non-formal sector, particularly girls and women. Special emphasis is placed on equal opportunities, especially for girls and children with disabilities in the most underprivileged areas of the country, namely Upper River, Central River, Lower River and North Bank Divisions.

183. Poor households tend to allow more boys to enrol in school than girls. School fees are a major consideration as the economic implications are obvious. Girls are further disadvantaged by heavy domestic chores, especially when their mothers are engaged on the farms and gardens producing food. Boys tend to be less busy outside school at the busiest time of the school calendar. September is the lean period before harvest when money supply is at the lowest, especially in the rural households. This is the beginning of the school year for most public schools.

184. Lack of sufficient female teachers as role models, school fees, distance from school and teenage pregnancy are also hindering girls' education. Families therefore tend to sacrifice the education of the girl child when financial resources are inadequate to meet school fees.

185. The Gambia Radio and Television Services programmes on girl education are a classic example of publicizing girls' education, despite the resource constraints and social factors. The

disparity in the gender ratio in rural school enrolments is significant: 13 per cent more boys than girls. Realistic evaluation and monitoring of the root causes of these problems such as the ones highlighted should be sustained. Economic factors, cultural beliefs and inhibitions, ethnicity and poverty determine the retention of girls in the education system.

186. As a priority concern for Government, international agencies and NGOs, the national girls' education programme is adequately funded. However, the major challenge in this area continues to be the attitudes of people towards formal education, especially in the rural areas.

187. The existing 6-3-3-4 system of school education will gradually be restructured into a 9-3-4 system. This will incorporate:

- Nine years of basic education accessible to all Gambian children;

- Three years of senior secondary school education which will cater for at least half of the graduates of the basic education cycle and will provide opportunities for more options and in-depth learning of both general and special subjects such as Technology, Science and Commerce; and

- Post-secondary education to fill the middle and high-level human resources needs of the country.

188. Attainment of the educational objectives will require improvement in the use of existing resources. This will require increasing student-teacher ratios; ensuring that learning materials are used and maintained; expanding double-shift and multi-grade teaching; tapping new sources of finance; increasing community participation; reallocating expenditure in favour of basic education; strengthening partnerships with non-governmental organizations in support of education; and ensuring that external assistance matches policy priorities.

189. In setting the revised policy priorities and objectives, some important factors were considered: the high population growth rate of 4.1 per cent; the cost of education as a barrier to educational participation of the poor who constitute one third of the Gambian population; the cost-effective use of resources; equity and the reduction of gender disparities. Therefore, the policy orientation is to increase access to quality education through cost reduction for the poor, gender disparity reduction, increases in government revenue, cost-effective use of all educational resources, and increased cost recovery at those levels of education where the social benefits are lowest.

190. With these considerations in mind, the broad objectives of education for the rest of the policy period up to the year 2003 are to:

- Increase the gross enrolment ratio in basic education of 7- to 15-year-olds by increasing the enrolment rates of 7- to 12-year-old children in grades 1-6 to 90 per cent by 2005;

- Increase the transition rate from grades 6-7 to 70 per cent by 2003 and without detriment to the expansion of enrolment in grades 1-6;

- Reduce the gender disparities in enrolment, retention and performance;

- Radically improve the quality of learning in grades 1-9 (improve learning outcomes through an improved curriculum, improve facilities and learning environments; teacher training; increased availability of learning materials);

- Increase access of adults to functional literacy and numeracy programmes;

- Increase access to and the coordination of vocational and technical education programmes;

- In the longer term, increase opportunities for higher education to meet the required human resource needs;

- Improve monitoring, assessment and evaluation strategies.

191. The way forward for the rest of the planned policy period will be to continue to focus on increasing access for all, particularly for girls, not just at basic level but at all levels, while concentrating at the same time on ensuring qualitative improvement. The ultimate goal, as enunciated by the Jomtien Declaration, is "Education for All", guided by the principles of the best interest of the child, equality and non-discrimination and the right to free and compulsory primary education. The structures of the educational system will be adjusted to combine basic education with vocational, technical and adult education in order to provide a well-coordinated system which serves the needs of both economic and social development. An assessment process which can evaluate system performance and highlight technical resources will facilitate the pursuit of the policy objectives.

192. All these initiatives will require substantial resources. Therefore, in keeping with its abiding commitment, Government will increase its effort to gradually provide education for all within the limits of its resource capacity. It is also anticipated that Government's development partners, such as United Nations agencies including UNICEF, would support its efforts at meeting the educational needs and rights of Gambian children. Such external support is in consonance with the spirit of article 45 of the Convention on the Rights of the Child, which relates to international cooperation for the implementation of the Convention.

193. The education sector cannot by itself mobilize internally the resources required for addressing the myriad of social problems. It can, however, analyse the priority concerns of the sector with a view to programming action to address them within the framework of cooperation with its partners.

194. Although the Department of State for Education is the primary institution responsible for the delivery of educational services, it is not the sole institution active in this area. Its partners include the Department of Social Welfare which administers sponsorship schemes for children in need of special protection; the Department of State for Youth and Sport which manages the National Youth Service Scheme; the NGO community and religious missions which provide vocational education, among others.

195. The table below shows the number of children sponsored predominantly by philanthropic organizations and individuals through the Department of Social Welfare:

Number of students sponsored, 1991-1998

Currently in school	857
Completed school	1 114
Girls	426
Boys	431
Nursery and primary	272
Junior secondary school	245
Senior secondary school	337
Vocational technical school	3

These figures only cater for a fraction of the school population, with limited scope for sustainability. Therefore, more viable options for ensuring 100 per cent enrolment of children in need must be sought.

1. The National Youth Service Scheme (NYSS)

196. This scheme, launched in January 1996, is unprecedented given its policy objectives and aspirations, that is to fill the gap created by the educational system, especially the academically biased educational curriculum. Adolescent school leavers who are denied opportunities for self-development are a special beneficiary of this initiative. It also serves to strengthen the civic-mindedness of young Gambians and to inculcate the virtues of hard work, self-reliance, patriotism and moral uprightness.

197. Diversified skill training and institutional attachment schemes are available to scheme members after a basic orientation and regimental training course lasting six weeks. The first batch or intake of 100 corps members were between the ages of 17 and 25 years. This was followed by a second and third batch of about equal numbers. It is also a gender-sensitive scheme and an equal opportunity initiative for boys and girls from all over the Gambia. The intake of corps members is usually reflective of the national character in the form of Divisional selection from all administrative Divisions of the Gambia. Twenty-five per cent of all intakes are girls. The current and fourth batch, the single largest intake of 200, began training on 27 July 1998 with 44 girls and 156 boys. Details on the participants since the beginning of the scheme are given below:

Batch	Year	Number of intakes
1st	1996	100
2nd	1996	100
3rd	1997	100
4th	1998	200

198. The scheme draws inspiration from the invaluable contribution of youths who would have been vulnerable to social problems such as unemployment, indiscipline, frustration, drug

abuse, prostitution, etc. The self-employment initiatives are at the core of NYSS youth development objective. The promotion of national unity through integration is also a major objective even though there are courses taught on it. A minimum educational requirement of grade 9, i.e. junior secondary school, is a prerequisite for participation in the scheme.

2. The President's Award Scheme

199. This is a voluntary scheme which was set up in the late 1980s through private initiative. It was soon to attract the attention of the Government as a meaningful attempt to develop the values of self-reliance and discipline in young people. The scheme currently benefits young people of 12 to 21 years with no formal education, primary junior and senior secondary school drop-outs. It receives a modest government subvention of D 200,000 per annum. There is a free payment arrangement for students at the skills training centre that opened in 1991. Courses offered include carpentry, home management, welding, motor mechanics, computer and secretarial courses. It is important to note that about 65 per cent of the intakes are girls.

3. Secondary education

200. Given the definition of the child under 18 years, one would argue that Government and its people have the obligation to ensure that education is provided not just for children at the primary level but also at the secondary and, by implication, the tertiary level. Despite the rapid increase in secondary school places, the cost of secondary education is progressively getting beyond the means of many poor families, especially children in the rural areas. The transition rate from primary to junior secondary is 72 per cent as at 1996 but is a much lower rate from junior and senior secondary school.

4. Financial constraints in the education sector

201. Expenditure on education remains high, especially recurrent expenditure over the period 1990-1996. Total public expenditure on education is said to have doubled during this period from 15 per cent to 21 per cent, which is equal to 6 per cent of GDP. Allocations to central and regional administration declined from 31 per cent to 6 per cent. This reflects an increasing tendency to centralize government activities, despite the existence of a national policy for decentralization.

202. Despite this increased expenditure, the demographic trends tend to impede the qualitative development of education despite a remarkable quantitative increase in primary school enrolment. Enrolment in primary school from 1988 has grown by an annual average of 8 per cent, exceeding the planned target of 6 per cent. Thus, by 1995/96, 132,481 children were enrolled in primary schools of whom 44 per cent were girls and 56 per cent boys. These figures do not include an estimated 30 per cent of primary school-going children who were enrolled in madrasah (Quranic) schools where the medium of instruction is Arabic.

VIII. SPECIAL PROTECTION MEASURES

A. Article 40 - The administration of juvenile justice

203. Although section 24 (2) of the Gambian Constitution stipulates that all civil cases shall be tried in public, to protect the interest and welfare of children under that age of 18 years such cases should be held in camera. Both the Constitution and statutes govern this. Administrative arrangements exist to help children in conflict with the law.

204. The Children and Young Person's Act provides for children in conflict with the law to be brought before a juvenile court for care proceedings which are generally held in camera unless the child is jointly charged with an adult in which case proceedings shall be held publicly. The Probation Service is one administrative arrangement for the supervision of young offenders serving suspended sentences. Employment or vocational training is sought on behalf of the probationer. If the juvenile has already learnt some trade or vocation but does not have capital to start a business, the Department of Social Welfare provides some capital from a fund under the Ministry of Health, Labour and Social Welfare.

205. Juveniles who are convicted and sentenced are not isolated from adult convicts due to the lack of infrastructure and financial constraints. Statistics from the Police Child Welfare Unit have revealed that only six juvenile offenders were held in connection with homicide-related cases, that is murder, between 1996 and 1998. None of these suspects was in remand custody but rather in the care of a senior female police officer. However, there are a number of other juveniles who may be remanded for other serious offences.

206. Noting the lack of adherence to the international standards outlined in the Convention, the Government in 1998 set up a National Committee on Juvenile Justice to advise on the measures to be taken to improve on the prevention and management of juvenile offences. The creation of a borstal institution by Government with NGO collaboration under both police and Social Welfare supervision and care is among the recommendations made.

207. Probation services are available for juveniles awaiting trial and those who are under binding orders. The Department of Social Welfare, the institution concerned with such issues, also tries to seek employment for those juveniles with marketable skills or helps them start their own businesses. Arrangements are usually made for students to be readmitted into schools. These preventive measures have the potential for averting any more serious problems.

208. However, paucity of probation officers in the Department of Social Welfare affects their capacity to provide adequate support for the effective discharge of their duties on a nationwide scale. There are no more than three probation officers for the entire country. Access to children in need of social reports and family visits is also compounded by the lack of mobility due to inadequate financing.

B. Article 3 - Drug abuse

209. The Drug Control Act, 1993 and the Drug Control Decree (Decree No. 80/1996) are improvements on the Dangerous Drugs Act. Punitive measures in the form of heavy fines for

possession, distribution or sale range from D 25,000 (US$ 2,500) to D 500,000 (US$ 50,000). Significant measures to prevent distribution in schools in the form of enhanced penalties for would-be offenders include mandatory fines and custodial sentences. Forfeiture of assets such as vehicles, bank deposits and real property of convicted offenders are other preventive measures in the anti-drug efforts of Government.

210. The dispensing of certain medicinal drugs in chemist shops is not effectively monitored. The abuse of tranquillizers and barbiturates by young addicts is due to the laxity of the distribution outlets rather than legislative measures. Drug-related offences are rising among juveniles due to the obsessive urges of addiction. Violent assault cases, housebreaking and stealing tend to have a direct linkage to financial needs of the young addicts. The police tend to have the problem of placing young addicts in rehabilitative care and therefore ignore them. It is not uncommon to find some on the streets, especially in urban areas, without family or institutional care.

IX. CONCLUSIONS AND RECOMMENDATIONS

211. The Gambia is one of the least developed countries, but with a clear vision and a commitment to progressively protect the rights of all its citizens, particularly its children, using the resources it has on hand and with the support of its development partners. In this context, and in order to continue the implementation of its obligations, within the framework of the Convention on the Rights of the Child, the following recommendations are being made for action nationally and with the support of development partners, especially agencies within the United Nations system:

(a) That the Government of the Gambia establish a national commission and secretariat for the progressive implementation, timely reporting and regular monitoring of the Convention on the Rights of the Child;

(b) That the Gambia review its legislation, most notably the Children and Young Person's Act, the Maintenance of Children Act, the Criminal Code and the Education Act, with a view to harmonizing these laws with the Convention, including the definition of the child;

(c) That the above-mentioned recommendations serve as the initial benchmarks against which the Gambia will be judged upon submission of its periodic report by the end of 1999.